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10/761,251

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Mitsuru Hirota

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EXAMINER

ZARE, SCOTT A

ART UNIT

PAPER NUMBER

4132

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/761,251

Applicant(s)

HIROTA, MITSURU

Examiner

Scott A. Zare

Art Unit

4132

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>01/22/2004</u> | 6) <input type="checkbox"/> Other: ____  |

## DETAILED ACTION

### *Specification*

The disclosure is objected to because of the following informalities:

- Under the "Background of the Invention," pg. 1, lines 19-25, includes the statement ""the vendor receives the order when the vender will be able to deliver the commodities of the specified quantity until the specified delivery period, in general." This sentence is incomprehensible.
- Throughout the Specification and in the Claims, beginning on pg. 17, line 25, the term "reminder" should be replaced by ~~—remainder—~~.
- On pg. 19, line 25, "If" should be deleted.
- On pg. 24, line 21, "massage" should be replaced with ~~—message—~~.
- On pg. 25, lines 8-13, the sentence is incomprehensible.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 2 and 4 are rejected under 35 U.S.C. 101 because the claimed invention is directed toward non-statutory subject matter. Claim 2 is directed toward a computer program. In order for a program to be statutory subject matter, it must be embedded on a computer readable medium. Claim 4 depends on claim 2 and thus acquires the same deficiencies as set forth above.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Luke et al. (US 6,131,087, referred hereinafter as "Luke").

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In regard to claim 1, Luke shows an order proposal method by which a vendor proposes the order quantity of a commodity to a buyer through a computer network, said method comprising:

- storing commodity ID (see column 5, line 64, disclosing "a product identifier"), an acceptable increase value (see column 6, line 67 – column 7, line 1, disclosing "the maximum quantity desired") and an acceptable decrease value (see column 7, line 2, disclosing "a

minimum quantity”) having correlation with each other for each commodity into storage of a computer connected to said computer network (see column 5, lines 40-42, stating “offer data from the originator’s computer flows to a computer server that functions as an account registry 100), said acceptable increase value indicating the value that can be increased (see column 6, line 67 – column 7, line 1, disclosing “the maximum quantity desired”) from a proposal order quantity (see column 7, line 1, disclosing “a preferred quantity desire”) for a commodity and said acceptable decrease value indicating the value that can be decreased from said proposal order quantity (see column 7, line 2, disclosing “a minimum quantity”);

- reading the acceptable increase value and the acceptable decrease value corresponding to the designated commodity ID from said storage when the commodity ID (see column 5, line 64, disclosing “a product identifier”), the proposal order quantity for the commodity (see column 7, line 1, disclosing “a preferred quantity desire”) and buyer ID (see column 5, line 31, disclosing “identity data”) are input to said computer (see also column 6, lines 13-19);
- determining acceptable order range whose maximum value is the sum of said proposal order quantity and said acceptable increase value, and whose minimum value is found by subtracting said acceptable decrease value from said proposal order quantity (see column 6, line

56 – column 7, line 13, disclosing “the product quantity dimension”);  
and

- transmitting said proposal order quantity and said acceptable order range to the buyer (see column 9, lines 1-8).

In regard to claim 2, Luke shows an order proposal program used in a terminal computer that can communicate with another computer through a computer network and has storage storing commodity ID, an acceptable increase value and an acceptable decrease value having correlation with each other for each commodity, said acceptable increase value indicating the value that can be increased from a proposal order quantity for a commodity and said acceptable decrease value indicating the value that can be decreased from said proposal order quantity, said program causing said terminal computer to execute the procedures of:

- reading the acceptable increase value and the acceptable decrease value corresponding to the designated commodity ID from said storage when the commodity ID (see column 5, line 64, disclosing “a product identifier”), the proposal order quantity for the commodity (see column 7, line 1, disclosing “a preferred quantity desire”) and buyer ID (see column 5, line 31, disclosing “identity data”) are input to said computer (see also column 6, lines 13-19);
- determining acceptable order range whose maximum value is the sum of said proposal order quantity and said acceptable increase value,

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and whose minimum value is found by subtracting said acceptable decrease value from said proposal order quantity (see column 6, line 56 – column 7, line 13, disclosing “the product quantity dimension”); and

- transmitting said proposal order quantity and said acceptable order range to the buyer (see column 9, lines 1-8, disclosing specified by said buyer ID (see paragraph 6, disclosing “parties’ identify) through said computer network.

In regard to claim 3, Luke shows a computer-readable recording medium storing an order proposal program used in a terminal computer that can communicate with another computer through a computer network and has storage storing commodity ID, an acceptable increase value and an acceptable decrease value having correlation with each other for each commodity, said acceptable increase value indicating the value that can be increased from a proposal order quantity for a commodity and said acceptable decrease value indicating the value that can be decreased from said proposal order quantity, said program causing said terminal computer to execute the procedures of:

- reading the acceptable increase value and the acceptable decrease value corresponding to the designated commodity ID from said storage when the commodity ID (see column 5, line 64, disclosing “a product identifier”), the proposal order quantity for the commodity (see column 7, line 1, disclosing “a preferred quantity desire”) and buyer ID (see

column 5, line 31, disclosing "identity data") are input to said computer (see also column 6, lines 13-19);

- determining acceptable order range whose maximum value is the sum of said proposal order quantity and said acceptable increase value, and whose minimum value is found by subtracting said acceptable decrease value from said proposal order quantity (see column 6, line 56 – column 7, line 13, disclosing "the product quantity dimension"); and
- transmitting said proposal order quantity and said acceptable order range to the buyer (see column 9, lines 1-8, disclosing specified by said buyer ID (see paragraph 6, disclosing "parties' identify) through said computer network.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Luke et al. (US 6,131,087) in view of Eltchaninoff et al. (US 2003/0055712).

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In regard to claim 4, Luke does not show wherein said storage further stores capacity of a container box for a commodity having correlation with said commodity ID, said program further causing said terminal computer to execute the procedures of:

- reading the capacity (of a container box for a commodity) corresponding to the input commodity ID from said storage;
- calculating the ratio of *remainder* when said maximum value is divided by said capacity with respect to said capacity; and
- changing said acceptable order range to be transmitted to said buyer by subtracting said *remainder* from said maximum value when said ratio is smaller than a predetermined value

Eltchaninoff shows:

- reading the capacity corresponding to the input commodity ID from said storage (see paragraph 148, line 2, disclosing "Derived Lowest Deliverable Unit");
- calculating the ratio of *remainder* when said maximum value is divided by said capacity with respect to said capacity (see paragraph 148); and
- changing said acceptable order range to be transmitted to said buyer by subtracting said *remainder* from said maximum value when said ratio is smaller than a predetermined value (see paragraph 148).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Luke to include reading the capacity, calculating the ratio

of remainder, and changing said acceptable order range to be transmitted because that would allow the seller to package the commodity in whole units, thus making the system more efficient.

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Claim 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Luke et al. (US 6,131,087) in view of Kumar et al. (US 2002/0042756, referred hereinafter as "Kumar").

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In regard to claim 5, Luke does not show the order proposal program according to claim 2 or 4, wherein said storage further stores vendor's inventory quantity of a commodity having correlation with the commodity ID, said program further causing said terminal computer to execute the procedures of:

- reading the vendor's inventory quantity of the commodity corresponding to the input commodity ID from said storage; and
- giving a warning when said maximum value of said acceptable order range exceeds said vendor's inventory quantity.

Kumar shows:

- reading the vendor's inventory quantity of the commodity corresponding to the input commodity ID from said storage (see paragraph 191, disclosing that the "LFM 622 receives a component ATP request 32, LFM 622 uses a supply vector 662 to determine if the requested quantity of the product is available and when"); and

- giving a warning when said maximum value of said acceptable order range exceeds said vendor's inventory quantity (see paragraph 73, disclosing that the "LFM 22 might indicate the component quotation 34 as having failed and provide an appropriate descriptive failure annotation).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Luke to include reading the vendor's inventory quantity and giving a warning when said maximum value of said acceptable order range exceeds said vendor's inventory quantity because performing those steps "allows failure conditions to be identified and summarized before component quotations 34 are sent back to the fulfillment server 16, thereby reducing overall network load." (See Kumar, paragraph 73)

In regard to claim 6, Luke does not show the order proposal program according to claim 2 or 4, further causing said terminal computer to execute the procedures of:

- correcting said maximum and minimum values of said acceptable order range when a correction value for said maximum or minimum value is input.

Kumar shows:

- correcting said maximum and minimum values of said acceptable order range when a correction value for said maximum or minimum

value is input. (see paragraph 201, disclosing "prompt fulfillment server to generate a revised promise 62 and send it to client 12)"

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Luke to include correcting said maximum and minimum values of said acceptable order range when a correction value for said maximum or minimum value is input because that would make the system adaptable for planning changes." (See paragraph 201).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Laughlin et al., US 2002/0107753 (Min/max inventory control system and associated method and computer program product)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott A. Zare whose telephone number is (571) 270-3266. The examiner can normally be reached on Monday - Friday, 8:00 a.m. - 5:00 p.m., EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Khoi Tran can be reached on (571) 272-6919. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Scott A. Zare  
Art Unit 4132  
October 22, 2007

  
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